

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57660; File No. SR-Amex-2007-131)

April 14, 2008

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change, as Modified by Amendment No. 1, Relating to Generic Listing Standards For Index Multiple Fund Shares and Index Inverse Fund Shares

I. Introduction

On December 20, 2007, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to revise Amex rules to include generic listing standards for series of Index Multiple Exchange Traded Fund Shares (“Multiple Fund Shares”) and Index Inverse Exchange Traded Fund Shares (“Inverse Fund Shares”) (collectively, the “Fund Shares”). On February 29, 2008, Amex filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the Federal Register on March 13, 2008.³ The Commission received no comment letters regarding the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description

Amex Rules 1000A-AEMI and Rules 1001A through 1005A provide standards for listing Index Fund Shares (“IFSs”) on the Exchange. The Exchange proposes to amend the definition of “Index Fund Share” set forth in Amex Rule 1000A-AEMI(b)(2)

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 57451 (March 7, 2008), 73 FR 13591.

to reflect that domestic equity, international or global equity, or fixed income securities indexes, or a combination thereof, may be used as the underlying performance benchmark for Fund Shares.⁴

The Exchange also proposes to revise Commentaries .02, .03 and .04 to Amex Rule 1000A-AEMI and add new Commentary .01 to Amex Rule 1002A to permit the listing and trading of Multiple Fund Shares and certain Inverse Fund Shares pursuant to the Exchange's generic listing standards for IFSSs. Specifically, the investment objective associated with the Fund Shares must be expected to achieve investment results, before fees and expenses, by a specified multiple (Multiple Fund Shares) or inversely up to -200% (Inverse Fund Shares) of the underlying performance benchmark domestic equity, international or global equity and/or fixed income indexes, as applicable.

Accordingly, this proposal would enable the Exchange to list and trade Multiple Fund Shares and certain Inverse Fund Shares pursuant to Rule 19b-4(e) of the Act⁵ if each of the conditions set forth in Commentaries .02, .03, .04 and .05 to Amex Rule 1000A-AEMI, as applicable, are satisfied.⁶

⁴ Multiple Fund Shares seek to provide investment results, before fees and expenses, that correspond to a specified multiple of the percentage performance on a given day of a particular foreign, domestic or fixed income securities index. Inverse Fund Shares seek to provide investment results, before fees and expenses, that correspond to the inverse (opposite) of the percentage performance on a given day of a particular foreign, domestic or fixed income securities index by a specified multiple. Fund Shares differ from traditional exchange-traded fund ("ETF") shares in that they do not merely correspond to the performance of a given securities index, but rather attempt to match a multiple or inverse of such underlying index performance.

⁵ 17 CFR 240.19b-4(e).

⁶ See Commentaries .02(a)(A) to Amex Rule 1000A-AEMI (Domestic Equity); .02(a)(B) to Amex Rule 1000A-AEMI (International Equity); .02(a)(C) to Amex Rule 1000A-AEMI (Prior Approved Indexes); .03 to Amex Rule 1000A-AEMI

Limitation on Leverage

In connection with Inverse Funds that seek to provide investment results, before fees and expenses, in an amount that exceeds -200% of the underlying benchmark index, the Exchange's proposal would continue to require specific Commission approval pursuant to Section 19(b)(2) of the Act.⁷ In particular, Amex Rule 1000A-AEMI(b)(2)(iii) would expressly prohibit Inverse Funds that seek to provide investment results, before fees and expenses, in an amount that exceeds -200% of the underlying benchmark index, from being approved by the Exchange for listing and trading pursuant to Rule 19b-4(e) under the Act.⁸

In connection with Multiple Fund Shares, proposed Amex Rule 1000A-AEMI(b)(2) does not provide a similar limitation on leverage. Instead, the proposal would permit the underlying registered management investment company or fund to seek to provide investment results, before fees and expenses, that correspond to any multiple, without limitation, of the percentage performance on given day of a particular domestic equity, international or global equity, or fixed income securities indexes or a combination thereof.

Availability of Information about Fund Shares and Underlying Indexes

Proposed new Commentary .01 to Amex Rule 1002A provides that the portfolio composition of a Fund will be disclosed on a public Web site. Web site disclosure of portfolio holdings that will form the basis for the calculation of the net asset value by the

(Fixed Income); and .04 to Amex Rule 1000A-AEMI (Combination Indexes of Domestic Equity, International Equity and/or Fixed Income).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 240.19b-4(e).

issuer of a series of Multiple Fund Shares or Inverse Fund Shares will be made daily and will include, as applicable, the identity and number of shares held of each specific equity security, the identity and amount held of each fixed income security, the specific types of Financial Instruments and characteristics of such instruments, cash equivalents and amount of cash held in the portfolio of a Fund. This public Web site disclosure of the portfolio composition of a Fund, that will form the basis for the calculation of the net asset value, will coincide with the disclosure of the same information to “Authorized Participants.”⁹ Investors will have access to the current portfolio composition of a Fund through the Fund’s Web site and/or at the Exchange’s Web site at www.amex.com.

Trading Halts

Existing trading halt requirements for IFSs will apply to Multiple Fund Shares and Inverse Fund Shares. In particular, Amex Rule 1002A(b)(ii) provides if the Intraday Indicative Value or the index value applicable to that series of IFSs is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the Intraday Indicative Value or the index value occurs. If the interruption to the dissemination of the Intraday Indicative Value or the

⁹ Authorized Participants are the only persons that may place orders to create and redeem Creation Units. Authorized Participants must be registered broker-dealers or other securities market participants, such as banks and other financial institutions that are exempt from registration as broker-dealers to engage in securities transactions, who are participants in DTC. The Commission notes that, although substantively identical, the format of the disclosure of portfolio holdings to Authorized Participants may differ from the format of the public Web site disclosure.

index value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.¹⁰

In addition, proposed new Commentary .01 to Amex Rule 1002A will require Amex to halt trading of subject Fund Shares if the Exchange becomes aware that the open-end investment company fails to properly disseminate the appropriate net asset value (“NAV”) to market participants at the same time and/or fails to provide daily public Web site disclosure of its portfolio holdings. Commentary .01 to Amex Rule 1002A further provides that the Exchange may resume trading in such Fund Shares only when the NAV is disseminated to all market participants at the same time or the daily public Web site disclosure of portfolio holdings occurs, as appropriate.

In addition to other factors that may be relevant, the Exchange may consider factors such as those set forth in Amex Rule 918C(b) in exercising its discretion to halt or suspend trading in Multiple and/or Inverse Fund Shares. These factors would include, but are not limited to, (1) the extent to which trading is not occurring in securities comprising an Underlying Index and/or the Financial Instruments of a Multiple or Inverse Fund, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In the case of the Financial Instruments held by a Multiple or Inverse Fund, the Exchange represented that a notification procedure will be implemented so that timely notice from the investment adviser of such Multiple or Inverse Fund is received by the Exchange when a particular

¹⁰ If an IFS is traded on the Exchange pursuant to unlisted trading privileges, the Exchange will halt trading if the primary listing market halts trading in such IFS because the Intraday Indicative Value and/or the index value is not being disseminated. See Securities Exchange Act Release No. 55018 (December 28, 2006), 72 FR 1040 (January 9, 2007) (SR-Amex-2006-109).

